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The Case for Polygraph Examination in Kentucky

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“One of the first things examinees often say is, ‘These things aren’t allowed in court, are they?’

“There are settings in which polygraph is allowed,” said Pam Shaw, president of the American Polygraph Association. “But, when we look at our scientific stance, we know that we have to be able to show something with research. It has to be more than just because we say it works.”

The use and admissibility of polygraph examination is a topic that generates as much contention between legal professionals and polygraph supporters as the death penalty does between conservatives and liberals. That contention hinges on nearly 90 years of history, during which the topic has been debated, researched, tested and still found unresolved.

However, Kentucky cases as recent as December 2011 have reached the Kentucky Supreme Court challenging the issue again and again. And, polygraph experts say as the science and understanding of the methodology continues to evolve, there is hope for a more certain future of acceptance.

POLYGRAPH IN KENTUCKY

There are a mere 44 polygraphers registered as members of the Kentucky Polygraph Association — the majority of the state’s licensed examiners, according to the association’s vice president, Mike Beck.

“There aren’t that many polygraph examiners out there, period,” Beck said. “It is a luxury if an agency has one or has access to one. They just aren’t around every corner.”

There are few laws that govern the state’s examiners, most of them having to

do with the licensing of the polygraphers to perform the tests, not with how the tests ultimately are to be used. There are three exceptions, relating specifically to the prohibition of requiring sexual abuse victims to undergo testing. (See p. 67).

“There is not legislation that prohibits [using a polygraph as evidence in court], but it’s kind of the unsaid court rule, that if you mention polygraph, now it’s thrown out,” said Shaw, who also serves as the Kentucky Law Enforcement Council’s Testing Services supervisor. “Your case is done, your witness is done. So, it just becomes one of those taboo words people say you just can’t use, even though they may not understand there are cases you can use it. It’s all about how you approach it with the judge and what’s agreed upon with the attorneys. A lot of attorneys will still use a polygraph to determine the